



# Public Notice

US Army Corps  
of Engineers

Sacramento District  
1325 J Street  
Sacramento, CA 95814-2922

Public Notice Number: 200400879

Date: September 12, 2005

Comments Due: October 12, 2005

In reply, please refer to the Public Notice Number

**SUBJECT:** The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application to construct the Mountain House Community mixed-use development project, which would result in losses of to approximately 1.48 acres of waters of the United States, including wetlands, in or adjacent to Dry Creek. This notice is to inform interested parties of the proposed activity and to solicit comments. This notice may also be viewed at the Corps web site at <http://www.spk.usace.army.mil/regulatory.html>.

**AUTHORITY:** This application is being evaluated under Section 10 of the Rivers and Harbors Act of 1899 for structures or work in or affecting navigable waters of the United States and/or Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States.

**APPLICANT:** Shea Mountain House, LLC  
PO Box 5064  
2580 Shea Center Drive  
Livermore, California 94551  
ATTN: Kevin Peters

**LOCATION:** Mountain House is located in western San Joaquin County. It is situated east of the Alameda County-San Joaquin County line, south of Old River and north of Interstate 205. The project site is located in Townships 1 and 2 South, Range 4 East, San Joaquin County, California, and can be seen on the Clifton Court Forebay USGS Topographic Quadrangle.

**PROJECT DESCRIPTION:** The applicant is proposing to construct a 4,784-acre planned community development to ultimately contain 16,000 dwelling units for approximately 44,000 residents. The relocation and restoration of Dry Creek is a component of the Mountain House Community plan. Other components include a previously permitted Mountain House Creek restoration project and a proposed treated effluent outfall structure into Old River.

The applicant proposes to establish a 27.7-acre natural corridor from Byron Road downstream to Old River. The existing 7.2 acres of wetlands located immediately upstream of Kelso Road will be preserved. The reach of Dry Creek from the downstream limit of these wetlands to Old River will be redirected and restored to a naturalized condition consisting of a 1.53-acre meandering low flow channel with 1 acre of water quality basins, a mid-level terrace and an upper terrace. The mid-level and upper terraces will consist of oak woodland and grassland habitats that will buffer the restored creek from adjacent development. The pump station and flood control levee at the downstream end of the Dry Creek channel will be removed in order to establish an open-flow connection between Dry Creek and Old River. The 1.48-acre abandoned reach of Dry Creek will be filled following restoration of the naturalized corridor. This reach of Dry Creek

has been severely degraded over the years by realigning and channelizing it into a series of drainage ditches.

The Dry Creek natural corridor will be approximately 27.69 acres. Of this total, approximately 8.73 acres will be comprised of Dry Creek and adjacent wetlands. The remaining 18.96 acres will consist of approximately 1.0 acres will be water quality treatment basins, 10.78 acres will be mid-terrace floodplain, and 7.18 acres will be the upper terrace floodplain. The Dry Creek natural corridor will be maintained in a natural state.

Storm water runoff entering the creek will be directed through storm water treatment basins located in the mid-terrace area. These treatment facilities will be designed to capture and treat the first flush of runoff. There will be three road crossings of Dry Creek. One of the crossings will be located at the existing Kelso Road crossing of Dry Creek. The other two crossings will be located nearer to Old River. All road crossings will be bridges that totally span the new low flow channel and any adjacent wetlands.

The applicant has previously realigned and restored Mountain House Creek into a naturalized corridor from the upstream limit of the Mountain House Community project area down to the confluence with Old River. That 116-acre corridor ranges in width from 200 to 650 feet wide, averaging about 300 feet, was designed to handle a 100-year flood, and includes a 5.25-acre low flow channel with 30 acres of adjacent wetlands and 19 acres of water quality treatment basins, a mid level and an upper level terrace consisting of oak woodland and open savannah habitat, within a community development. All of the bridges crossing Mountain House Creek will be designed to completely clear span the creek and constructed wetlands. An underground pipe system was constructed beneath the low flow channel to help pass the flow of upstream runoff. Sanitary sewer lines were constructed across the channel to provide access to the treatment plant.

Based on the available information, the overall project purpose is to construct a planned residential community in western San Joaquin County, near Interstate Highway 205. The Mountain House Creek Restoration project was a previous component of this overall planned community development. The attached drawings provide additional project details.

#### **ADDITIONAL INFORMATION:**

**Environmental Setting.** There are approximately 15.73 acres of waters of the United States, including wetlands within the Mountain House project area, excluding the Mountain House Creek restoration previously permitted. There are 0.85 acre of seasonal wetlands adjacent to Wicklund Cut, 7.18 acres of seasonal wetlands associated with Dry Creek, 1.48 acres of waters of Dry Creek and 6.22 acres of isolated wetlands which are not currently regulated by the Corps under Section 404 of the Clean Water Act. The vast majority of the site is characterized by leveled and irrigated farmland, used to grow mostly alfalfa, sugar beets, corn and other grains. A system of irrigation and drainage ditches allow water dispersal and drainage of the entire project area. The creeks were channelized over the years. The area has been predominantly agricultural with more recent development occurring to the east as the City of Tracy expands.

**Alternatives.** The applicant has not provided information concerning project alternatives. The applicant is preparing an alternatives analysis which will evaluate various alternatives for achieving the desired objectives.

**Mitigation.** The Corps requires that applicants consider and use all reasonable and practical measures to avoid and minimize impacts to aquatic resources. If the applicant is unable to avoid or minimize all impacts, the Corps may require compensatory mitigation.

**OTHER GOVERNMENTAL AUTHORIZATIONS:** Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the California Regional Water Quality Control Board (RWQCB), is required for this project. The applicant has indicated they have applied for certification. The applicant has also applied for a California Department of Fish and Game 1602 Streambed Alteration Agreement.

**HISTORIC PROPERTIES:** The applicant states there are no known cultural resource sites within the project area. The likelihood of finding a previously unknown site is low given the level of existing disturbance at the site and the nature of the proposed work.

Based on the available information, cultural resources are not within the project's area of potential effect.

**ENDANGERED SPECIES:** The applicant states the project site contains potential habitat for six federally listed threatened and endangered species. These are San Joaquin kit fox (*Vulpes macrotis mutica*), California red-legged frog (*Rana aurora draytonii*), California tiger salamander (*Ambystoma californiense*) Central Valley spring-run chinook salmon (*Onchorhynchus tshawytscha*), Central Valley steelhead (*Onchorhynchus mykiss*) and delta smelt (*Hypomesus transpacificus*). The Corps will initiate consultation with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service, pursuant to Section 7 of the Endangered Species Act.

The project is subject to the San Joaquin Multi-Species Habitat Conservation Plan (SJMHC). The U.S. Fish and Wildlife Service (the Service) has issued a biological and conference opinion for the issuance of a Section 10 incidental take permits for implementation of the SJMHCP. That biological and conference opinion is titled *Intra-Service Biological and Conference Opinion on Issuance of an Incidental Take Permit to Multiple applicants for a Multiple Species Habitat Conservation Plan for San Joaquin County, California*. The SJMHCP does not cover the anadromous fish and other species potentially found in the vicinity of the project. The proposed activity may affect Federally-listed endangered or threatened species or their critical habitat.

**ESSENTIAL FISH HABITAT:** The proposed project may adversely affect Essential Fish Habitat. The Corps will initiate consultation with the National Marine Fisheries Service, pursuant to Magnuson-Stevens Fishery Conservation and Management Act, as appropriate.

The above determinations are based on information provided by the applicant and our preliminary review.

**EVALUATION FACTORS:** The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the described activity will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the

needs and welfare of the people. The activity's impact on the public interest will include application of the Section 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230).

The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

**SUBMITTING COMMENTS:** Written comments, referencing Public Notice 200400879, must be submitted to the office listed below on or before October 12, 2005:

Marc Fugler, Project Manager  
US Army Corps of Engineers  
Sacramento District  
Delta Office  
1325 J Street, Room 1480  
Sacramento, California 95814-2922

The Corps is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic environment and the secondary and cumulative effects. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information please contact the applicant or the Corps' project manager Marc Fugler, 916-557-5255, [Marc.A.Fugler@usace.army.mil](mailto:Marc.A.Fugler@usace.army.mil).

Attachments: 6 drawings